

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOSEPH MUNDY,)	
)	
Plaintiff,)	No. 08 C 1576
)	
vs.)	Judge Bucklo
)	
)	Magistrate Judge
LIFE INSURANCE COMPANY OF NORTH AMERICA,)	Valdez
In its capacity as Administrator of the)	
Yellow Roadway Corporation Long-Term)	
Disability Benefits Plan,)	
YELLOW ROADWAY CORPORATION LONG-TERM)	
DISABILITY BENEFITS PLAN,)	
YELLOW TRANSPORTATION, INC.,)	
)	
Defendants.)	

PLAINTIFF'S MOTION TO AMEND COUNT I OF AMENDED COMPLAINT

1. Plaintiff was granted leave to file an Amended Complaint on May 30, 2008.
2. The Defendant to Count I, Yellow Transportation, Inc., filed a Motion to Dismiss Count I on June 17, 2008, and has not filed an Answer to Count I.
3. The Defendant's argument, in part, referenced the request for damages by Plaintiff under the Illinois Insurance Code, 215 ILCW 5/155 as a basis for dismissal.
4. The Plaintiff agrees that the state statute is inapplicable against Yellow Transportation, Inc. in this circumstance, as Yellow was the employer, not an insurer, and

therefore agrees that allegations and requests regarding the State Insurance Code should be removed from the Amended Complaint.

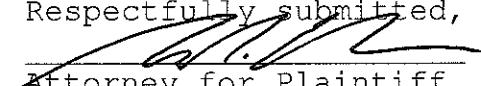
5. It is the Plaintiff's position that removal of the issue of the request for state insurance code damages will reduce the issues in the Motion to Dismiss, so therefore, Plaintiff has not filed a Response to the Motion to Dismiss, pending this motion.

6. Counsel for Yellow Transportation, Inc. agree to this motion, and counsel for Life Insurance Company of North America and Yellow Roadway Corporation Long-Term Disability Plan do not oppose this motion, as they are not defendants to Count I.

7. The Plaintiff requests leave of this Honorable Court to file the Second Amended Complaint, Instantly, with the only changes being the modification of Paragraph 13, the removal Paragraphs 14 and 15 of Count I, and the removal of Paragraphs B and C of the Request for Relief for Count I.

WHEREFORE, Plaintiff requests leave to file the Second Amended Complaint, Instantly.

Respectfully submitted,


Attorney for Plaintiff

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